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SUMMARY RECORD OF THE 1248th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 21 July 1993, at 10 a.m.

Chairman: Mr. ANDO

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Second periodic report of Bulgaria (CCPR/C/32/Add.17)

1. At the invitation of the Chairman, Mr. Koulishev, Mr. Dobrev, Mr. Bogoev, Mr. Velinov, Mr. Kolarov and Mr. Anastassov (Bulgaria) took places at the Committee table.

2. The CHAIRMAN welcomed the Bulgarian delegation, headed by Mr. Koulishev, who had been a member of the Committee between 1977 and 1980.

3. Mr. KOULISHEV (Bulgaria), introducing the second periodic report (CCPR/C/32/Add.17), first of all explained that submission of the document had been considerably delayed because from 1984 to 1989 the totalitarian Bulgarian regime had probably had little inclination to report on how it was discharging its obligations under the Covenant. However, there was a more respectable explanation for the delay since 1989: the authorities had needed time to come to terms with the scale and pace of the upheavals that had occurred and to take them duly into account. The transition from a totalitarian system to a democratic regime, which had now been under way for three or four years, had left a deep mark on Bulgaria's politics and society. It was in a manner of speaking a peaceful revolution which had made the process of democratization irreversible, in spite of the difficulties arising from a serious economic crisis, an acute political confrontation and some ethnic tension, as well as the disturbances and the threatening situation in the Balkans.

4. Initially, the various Bulgarian political forces had formed a "round table" in 1990 to seek a consensus regarding the most pressing reforms, which had led to the holding of the first free and democratic elections in June 1990. During a second phase, the National Constituent Assembly had adopted the new democratic Constitution of the Republic of Bulgaria in July 1991. In the October 1991 parliamentary elections, the former opposition, the Union of Democratic Forces (UDF), had won a slender majority, and it had formed a Government with the support of the Movement for Rights and Freedoms, representing the Turkish ethnic minority. During 1992, there had been a realignment of political forces in Parliament, compelling the UDF Government to resign. In conformity with the Constitution, the President of the Republic had then successively invited the three main parliamentary groups, in order of size, to form a new Government. Both the UDF and the Socialist Party had failed to do so, but the candidate put forward by the Movement for Rights and Freedoms had managed to form a government, with the support of most of the Socialist Party's deputies, on the basis of a programme aimed at pursuing democratization and preserving the market economy. A number of deputies had left the UDF to form a fourth parliamentary group - the New Union for Democracy - while others had become independent. However, the political climate remained tense; the opposition (UDF) was calling for the resignation of the President of the Republic and of the Government and the convening of new elections.

5. In spite of all the obstacles and difficulties, the Bulgarian people took particular pleasure in two aspects of that arduous transition to a new democratic society: firstly the peaceful nature of that evolution, marked by respect for the rules and principles of parliamentary democracy, as well as human rights and fundamental freedoms; secondly, the experience so far gained in seeking a satisfactory solution to the ethnic problems which had led to violence and so much bloodshed elsewhere in the Balkans.

6. All those changes had brought about a radical and positive modification of the political, social and legal context in which Bulgaria discharged its obligations under the Covenants. Also, they had again demonstrated that democracy, political pluralism and the supremacy of law were prerequisites for ensuring the enjoyment of human rights and fundamental freedoms by all, and for eliminating any form of discrimination. That favourable environment also contributed to bridging the gap that had opened, under the totalitarian regime, between the law and its actual application in the human rights sphere.

7. Nevertheless, there were a number of difficulties affecting the implementation of the Covenant in Bulgaria. In particular, the continuing conflictual nature of politics permeated every sphere, including that of human rights, respect for which could not hinge on ideological or political considerations. It would certainly be no easy matter to put an end to that state of affairs, which was attributable both to long-standing grievances and to a lack of political culture and of appreciation of the principle of the rule of law. However, it was necessary to end that conflict in order to achieve a consensus among political forces so as to intensify and accelerate the economic and political reforms.

8. Even if ethnic tensions were less severe than they had been only a short time previously, they still gave cause for concern. They were deeply rooted in the history of the Bulgarian people, which had experienced five centuries of foreign domination, as well as also being rooted in the low cultural level of certain sectors of the minorities among the population. Moreover, the bloody ethnic drama unfolding not far from Bulgaria, in the former Yugoslavia, did not help matters.

9. The severe economic crisis currently buffeting Bulgaria also posed a serious threat to respect for certain human rights. The external debt of $13 billion left by the former regime was a heavy burden for a country such as Bulgaria. Strict enforcement of the sanctions imposed by the United Nations on Iraq had resulted in losses of $1.4 billion for Bulgaria during the previous two years, and the embargo against Serbia and Montenegro, especially since the adoption of Security Council resolution 820 (1993), would cost Bulgaria over $2.6 billion in direct losses in 1993 alone. Consequently, the situation was extremely difficult for Bulgaria's economy, which was already struggling to cope with the catastrophic decline in industrial output and the loss of major foreign markets. The increase in unemployment, inflation and the inadequate income of most of the population demonstrated that the social cost of the reforms was unfortunately terribly high. That lamentable economic situation particularly affected human rights and freedoms, which required

physical and financial means of protection, especially in order to guarantee the exercise of the rights of ethnic, linguistic and religious minorities. Moreover, the disturbing rise in crime, especially among persons from certain ethnic groups, was a source of psychological and social problems.

10. Finally, despite intensive legislative activity by the National Assembly, many matters relating to human rights still required new legislation. Unfortunately, however, the overriding requirements of society made it impossible to find the necessary time. The National Assembly had to give priority to certain categories of laws, essentially economic and social ones, and to postpone the adoption of other texts that were considered less pressing. It should, however, be pointed out that over 500 bills had been set before the National Assembly, many of them relating to human rights issues. A further hindrance was unfamiliarity with international human rights standards among judicial and administrative officials. Although such officials were required by the Constitution to apply such standards directly and to give priority to them, they nevertheless tended to give precedence to domestic legislation.

11. The CHAIRMAN invited the Bulgarian delegation to reply to the questions raised in the list of issues to be taken up in connection with the consideration of the report, beginning with section I, which read:

"I. Constitutional and legal framework within which the Covenant is implemented; non-discrimination and equality of the sexes and rights of persons belonging to minorities (arts. 2, 26 and 17)

(a) Please provide information on any factors and difficulties affecting the implementation of the Covenant, particularly in view of the 'radical changes' that have occurred in Bulgaria over the last several years (see para. 3 of the report).

(b) Please clarify in what respects national legislation and practice do not yet fully conform to the Covenant with regard to the status of foreigners (see para. 28 of the report).

(c) Please provide information on cases, if any, where individuals have invoked the provisions of the Covenant directly before the courts and comment on the outcome of such cases. Please illustrate also how conflicts between provisions of the Covenant and domestic law are being resolved by the Constitutional Court.

(d) What progress has been made by the National Assembly in adopting new legislation in the field of human rights under the three-year plan referred to in the Constitution (see para. 6 of the report)? In particular, has the new Penal Code been adopted?

(e) What measures have been taken since the consideration of the initial report to disseminate information on the rights recognized in the Covenant and on the first Optional Protocol, particularly among the various minority communities in their own language? To what extent has the public been made aware of the examination of this report by the Human Rights Committee?

(f) Please provide information of the ethnic, linguistic and religious minorities living in Bulgaria and on the assistance given to them to preserve their cultural identity, language and religion.

(g) Please clarify whether members of the Turkish minority who fled Bulgaria after 1984 have the possibility to come back to Bulgaria and receive compensation.

(h) Please elaborate on the situation of the Roma (Gypsies) in Bulgaria."

12. Mr. KOULISHEV (Bulgaria) said that he had addressed question (a) in his introductory statement. Question (b) was the result of a misunderstanding attributable to an inaccuracy in the last sentence of paragraph 28 of the report (CCPR/C/32/Add.17). In actual fact, the Stay of Foreigners in Bulgaria Act of 1972, which had been amended several times during the previous 20 years, was now fully consistent with the provisions of the Covenant. Only the regulations implementing the Act still posed a number of problems, as several of their provisions had not been properly amended to take account of the amendments made to the Act. The implementing regulations thus referred to a number of requirements which had in fact since been lifted, such as the obligation for foreigners to obtain permission to travel to border areas, and foreigners were currently subject to the same provisions as nationals in that respect. He also explained that a bill designed to amend the legislation relating to foreigners, which had been put before Parliament, concerned the regulations for their stay, their conditions of work, measures for their expulsion and the possibility of appealing against judicial decisions. However, the bill had not yet been adopted.

13. In response to section I (c) of the list, he said that it was extremely difficult to obtain information on any cases where individuals had invoked the provisions of the Covenant before the courts, particularly as the decisions of the ordinary courts were not usually published. However, the compendium of decisions handed down by the Supreme Court during the previous two years did not mention any cases in which the provisions of the Covenant had been invoked. He added that the decisions of the future Supreme Administrative Court would also be published. As for the Constitutional Court, during its first 18 months of existence it had been called upon to decide several conflicts between domestic law and international legal norms, including provisions of the Covenant. Most notably, it had declared unconstitutional certain of the transitional and definitive provisions of the Banks and Loans Act, pursuant to which individuals who had sat on the boards of banks under the totalitarian regime were barred from appointment to senior managerial positions in banks. In conformity with the Constitution, the Constitutional Court's ruling had led to the abrogation of the measure.

14. The Constitutional Court had also rejected a claim that the Act of 24 June 1992 amending the Penal Code was contrary to article 2 of the Covenant. That Act dealt with matters relating to the property of the former political parties under the totalitarian regime. A noteworthy case had been raised in respect of the Act designed provisionally to introduce a number of new requirements applicable to the members of the governing bodies of scientific institutions. The Act prohibited certain categories of scientist,

who had held high positions in the past, from sitting on the governing bodies of scientific institutions. The President of the Republic, together with 102 deputies, had taken the matter to the Constitutional Court and invoked the incompatibility of the Act with article 6 of the Constitution and articles 2 and 4 of the Covenant. The Constitutional Court had taken the view that the requirement introduced by the Act was based on criteria of professional aptitude and not on the political beliefs of those concerned, and had consequently dismissed the application by the President of the Republic and the deputies. However, five of the Court's judges had expressed a separate opinion, supporting the President and the deputies.

15. In reply to the questions in paragraph (d), he said that the National Assembly was somewhat behind schedule in performing the task assigned to it by the Constitution, especially with regard to human rights legislation. Few laws relating to human rights had so far been adopted; to meet the three-year deadline set by the Constitution, the National Assembly would have to take action on over 45 bills in the next 12 months, a clearly impossible task that posed a serious problem.

16. Regarding the questions in paragraph (e), he said that the Covenant and the first Optional Protocol to the Covenant had been published in the Official Gazette as well as in a brochure put out by the Bulgarian Association for the United Nations. Furthermore, a number of publications of the Centre for Human Rights had recently been published in Bulgarian, with the assistance of the Centre. They were issued free of charge. A human rights education programme intended for schools was also being prepared, and there were plans to provide teaching on human rights matters in the law faculties of a number of Bulgarian universities as from the following autumn. Over the previous three years, various seminars and conferences on human rights matters had been organized, particularly with assistance from the Centre for Human Rights and the Council of Europe. The Covenant had not been published in languages other than Bulgarian, which was the official language.

17. Regarding the questions raised in paragraphs (f), (g) and (h) of section I of the list, he recognized that the report (CCPR/C/32/Add.17) was rather brief in that respect and said that he would try and supplement it on the basis of new developments in Bulgaria, and in particular the recent demographic census of December 1992. The census had made it possible to draw up, for the first time since 1975, a table showing the ethnic, religious and linguistic composition of the population. Several criteria had been adopted, such as ethnic background, mother tongue and religion, an approach which had moreover been criticized by nationalist elements, while doubt had also been cast on the objectivity of the census in some areas of the country. In that regard, a parliamentary investigation had been begun in a locality in the south-east, where the Movement for Rights and Freedoms had been accused of exerting pressure on the Pomaks (Muslims of Bulgarian origin, who only spoke Bulgarian), to register as Turks. The National Assembly should be taking a decision on that matter in the near future. As a whole, however, it was difficult to challenge the census results. The final figures would only be known at the end of the year, but according to the first results, which were relatively reliable, there were approximately 8.5 million inhabitants in Bulgaria, 7.2 million of whom were Bulgarians, 800,000 Turks and 280,000 Gypsies. The other minority groups as a whole (Armenians, Jews,

Vlachs, Greeks, Russians, etc.) amounted to 90,000, 5,000 of whom had described themselves as Macedonian. Bulgarian was the mother tongue of over 86 per cent of the population. Turkish was the mother tongue of over 9 per cent of the inhabitants, and the Gypsy language that of 3 per cent.

18. As for religion, approximately 87 per cent of the population was Christian, essentially Orthodox, while the proportion of Muslims was 12.7 per cent.

19. He pointed out that major strides had been made towards the restoration, realization and protection of the rights of the ethnic, religious and linguistic minority communities. Particular attention had been focused on remedying the disastrous effects of the repressive measures and assimilation attempts directed against the Bulgarian Turks, particularly during the last five years of the totalitarian regime. A broad range of legislative and administrative measures had been introduced to restore their rights and to provide redress for the wrongs committed.

20. Thanks to the introduction of accelerated procedures, almost 600,000 applications by Turks, Gypsies and Pomaks for the restoration of their original family names had been granted. Moreover, four successive amnesty laws had led to the release of all the Bulgarian Turks who had been given prison sentences as a result of the campaign related to the name issue. Of the 369,000 Turks of Bulgarian nationality who had emigrated to Turkey in 1989, 150,000 had returned to Bulgaria. Two decrees by the Council of Ministers and a 1992 Act had made it possible for them to recover their homes, which they had been forced to sell before September 1989. The Act in question had moreover caused discontent in certain circles, who felt that the compensation paid to people who had purchased housing from the Turks in good faith was insufficient. In addition, the Bulgarian Turks who had remained in Turkey had the possibility of retaining Bulgarian nationality and a Bulgarian passport and of returning to Bulgaria. However, the fact was that emigration to Turkey had continued for the previous two years, and 50,000 Bulgarian Turks (100,000 according to the Turkish authorities) had allegedly left to settle in Turkey. That was clearly economic emigration, and the Turkish Government was apparently not favourably disposed towards that wave of immigrants.

21. Also with regard to the Turkish minority, the Movement for Rights and Freedoms which represented it had become the third political force in Bulgaria, with 24 deputies in the National Assembly, i.e. 10 per cent of the seats. The mayors of 650 villages and over 1,000 municipal councillors belonged to that Movement. As for the Armenians and the Jews, they played an extremely active role in Bulgaria's social and cultural life and were represented on all national and local bodies.

22. Children belonging to linguistic minority groups could study their mother tongue in State schools for four hours a week, as an option. Numerous Turkish children followed such courses. Two universities provided training to teach Turkish, while Armenian was studied at Sofia and Plovdiv. Hebrew was taught at Sofia within the framework of extracurricular activities. The Ministry of Education had recently had a manual for the study of the Gypsy language published, while even more recently the teaching of the Gypsy language, history and culture had been introduced into six Bulgarian schools. Books and

newspapers written in the languages of the various groups were freely published and distributed. Cultural and educational organizations of the Turkish, Armenian, Jewish, Gypsy or Vlach minorities operated freely.

23. Religious freedoms had been fully restored, and it was possible to practise all forms of worship without let or hindrance. Since 1989, several mosques had been built. Four Islamic secondary schools and an institute of Islamic studies operated in Sofia, and there were no obstacles to the publication and dissemination of religious texts. Parliament had recently adopted an act authorizing representatives of the minority religious groups to take leave to celebrate religious feasts.

24. The current economic crisis was having extremely harmful repercussions on relations among ethnic groups. For example, in the mountainous regions in the south, inhabited by Christians, Muslims, Turks and Gypsies, unemployment was as high as 80 or 90 per cent, and numerous members of the minority groups perceived it as a form of discrimination. The Gypsies were the most seriously affected by the crisis, their level of education was the lowest, and the rate of unemployment among them was the highest. Many of them lived in extremely poor conditions, and infant mortality was also highest among them. Unemployment and poverty drove many of them to alcoholism and crime, and many Gypsy children dropped out of school to take up a life of prostitution or delinquency. In 1992, there had been regrettable clashes between Gypsies and the police, and there had unfortunately been two cases of police brutality. Two policemen had been dismissed and the Government had undertaken reforms within the police. In areas inhabited by Gypsies, Gypsy officers had been appointed and the local police received training to facilitate its relations with the Gypsies. However, there was an urgent need for further measures to improve the situation.

25. Mr. DIMITRIJEVIC paid a tribute to the head of the Bulgarian delegation, who was still warmly remembered by the members of the Committee. He thanked him for his introductory statement and for the particularly valuable information given, even though it would have been even better if the information had already been contained in the report. Mr. Koulishev had frankly and lucidly described the difficulties that were bound to occur in a country which was in the throes of transformation. The Committee had been given what it was looking for, i.e. an idea of the social and political climate in which civil and political rights were exercised.

26. Regarding article 27 of the Covenant, the information provided orally was quite different from that given in paragraphs 209-212 of the report. That was perhaps because the population census had only been carried out in 1992, but the overall approach to the issue indicated by the report was unsatisfactory. It was stated that the members of each ethnic, religious and linguistic group enjoyed the same civil and political rights as all other Bulgarian citizens (para. 210) and that persons belonging to ethnic groups were free to use their mother tongue (para. 211). However, first of all article 27 asserted the collective right of minority groups, and secondly, theoretical equality was not enough; it was necessary to support expressions of cultural identity and actively to seek solutions to problems.

27. Mr. Koulishev had referred to the economic problems faced during the current transitional period, and had emphasized that unfortunately poverty occasionally led to friction that degenerated into nationalist behaviour. It was common for nationalist trends to be exacerbated by economic difficulties, and it was gratifying that the Government of Bulgaria had appreciated that fact and was endeavouring to curb excesses. Generally speaking, countries emerging from a totalitarian regime found that other extremely powerful groups, whose existence they had not suspected, were apt to violate human rights just as State agents had previously violated them; that new situation required a new approach.

28. In that respect, he asked whether, in view of article 13, paragraph 3, of the Bulgarian Constitution, which stipulated that Eastern Orthodox Christianity was considered the traditional religion of the Republic, religious minorities were not victimized in Bulgaria. More precise statistics would be useful, as the Bulgarian delegation had said that, according to the latest census, almost 90 per cent of the population described itself as of Orthodox faith, whereas the figure given in the report was 48.5 per cent. He asked whether, as in many former communist countries, the population did not describe itself as religious as a form of reaction, without really having any religious convictions.

29. Discrimination could also be practised against women, and information on the status of women would therefore be appreciated. In general, communist States prided themselves on having large numbers of women doctors or judges, but in actual fact those positions, which carried prestige elsewhere, were poorly paid in such countries, and as soon as they became better paid, women were replaced by men. For that reason, it would be useful to know what was the actual percentage of women deputies and of women in other positions of responsibility. Moreover, he asked whether, like other countries in a similar situation, Bulgaria was experiencing an anti-abortion campaign instigated by nationalists.

30. He asked for clarification of the exact position of the Covenant in domestic law, as the new Constitution seemed to suggest that international instruments remained in force, regardless of whether legislation contrary to them was subsequently introduced.

31. Finally, information should be provided on the fate of former members of the ruling classes under the totalitarian regime, whether it had been decided to exclude them from certain positions and whether the matter had been settled once and for all.

32. Mr. FODOR said he was particularly pleased to welcome the Bulgarian delegation as it was the first time that Bulgaria, as a State party, had appeared before the Committee since the political and economic upheavals which it had experienced. Numerous rights and freedoms were being exercised in Bulgaria for the first time. However, the transition period was not yet over, and a number of difficulties remained.

33. Bulgaria's report (CCPR/C/32/Add.17) had been submitted nine years after the due date. The reasons given by the Bulgarian delegation to account for that delay were not fully convincing. Actually, it might be considered that

it was precisely during transition periods that the Committee's comments could prove most valuable. However instructive it was, the second periodic report made virtually no reference to the difficulties encountered by Bulgaria in implementing the Covenant, with the exception of a reference to economic problems. That underscored how much the Committee had needed the information provided by Mr. Koulishev. The report, which covered the period ending June 1992, needed to be updated, and Bulgaria's current transitional situation raised the more general issue of whether a report should focus exclusively on the changes that had taken place or whether it should also cover the previous period. In his view, the whole of the period - prior to and following political changes - should be addressed. In view of the serious political and economic difficulties referred to by the Bulgarian delegation, it was not idle to speculate whether there might be, as in other countries in the same situation, a risk of extremist political forces regaining strength. It would also be useful to know whether there had been sufficient structural and personnel reforms in the judiciary, the police and the secret police. In addition, he asked whether elements of the former regime guilty of human rights violations had been brought before the courts and whether their victims, who had been arbitrarily detained, tortured and incarcerated, had been compensated. The report referred only to provisions for compensation of material losses.

34. Article 5, paragraph 4, of the new Constitution, which provided that international instruments superseded any domestic legislation stipulating otherwise, apparently settled any potential conflict between a treaty and domestic law, although he was still not sure he fully understood the exact status of the Covenant. Probably, the Constitution was not retroactive, and if that was indeed the case, he wondered whether article 5, paragraph 4, of the Constitution applied from the moment the Constitution came into force, or from the time of ratification of the Covenant.

35. There were some States parties that denied the existence of minorities on their territory and advanced explanations for the absence of minorities. Although paragraph 210 of the report of Bulgaria might indicate such a tendency, the statement by the Bulgarian delegation had shown that that was not the case. Noting that, according to the report (para. 211), members of ethnic groups could study their mother tongue at Bulgarian schools, he inquired whether there were schools where all subjects on the curriculum were taught in the national languages.

36. The three main grounds on which, according to paragraph 42 of the report, it was possible to curtail certain rights under the Bulgarian Constitution were perplexing. In the case of a declaration of war or proclamation of martial law, a state of emergency would probably be imposed. It was difficult to understand why, in those circumstances, the Bulgarian legislature had seen fit to distinguish three grounds.

37. If it was true, as stated in paragraph 29 of the report, that "from a legal point of view the problems of protecting human rights have been resolved in a satisfactory manner as far as the International Covenant on Civil and

Political Rights is concerned", there were many Western democracies that might envy the Republic of Bulgaria. However, it was clear from the report that many legislative instruments, and in particular the Penal Code, were still being prepared.

38. Bulgaria's accession to the first optional Protocol was reason for satisfaction. In order to assume full significance, however, that accession should be widely publicized, particularly in legal circles, and he asked whether basic information had been provided regarding the Committee's activities and the procedure for submitting communications to it, and indeed the address of the Centre for Human Rights.

39. Mr. HERNDL welcomed the Bulgarian delegation and thanked Mr. Koulishev in particular for his oral statement. It was clear from the report submitted by the Government of Bulgaria and the details given orally by the delegation that Bulgaria was in the process of establishing a new legal framework capable of satisfying the population's aspirations to democracy and of ensuring respect not only for the individual rights contained in the Covenant, but also for those proclaimed in the various other international instruments to which Bulgaria was a party. Of course, the transformation of the national legal order which was under way would take some time, and the Committee could hardly expect the Government of the State party to provide, at the present juncture, a detailed description of the measures adopted to guarantee respect for the rights whose observance it had committed itself to ensuring.

40. Regarding the provisions of article 5, paragraph 4, of the new 1991 Constitution, and in connection with paragraph 8 of the report, he asked for more detailed information on the meaning of the statement that any international instruments which had been ratified by the Republic of Bulgaria, promulgated and come into force, were considered part of domestic legislation and superseded any law stipulating otherwise. He asked whether the international instruments in question superseded such legislation as soon as they came into force. He also asked for clarification of the appropriate procedure for bringing matters concerning the constitutionality of legislation before the Constitutional Court, and wondered whether it was strictly in conformity with the provisions of the Covenant.

41. Regarding minorities, the Bulgarian delegation might inform the Committee whether the Government planned to introduce general legislation granting minorities certain specific rights or a degree of autonomy. It might also provide further details of the implementation of article 26 of the Covenant, which was referred to only in paragraphs 207 and 208 of the report. Lastly, regarding the implementation of article 3 of the Covenant (paras. 39-41 of the report), it appeared that equality between men and women was guaranteed and observed in practice, but the Committee would appreciate detailed statistics, particularly of the number of women in high positions and more especially in the legal profession.

42. Mrs. CHANET welcomed the Bulgarian delegation and particularly commended it for having referred to the Committee's general comments, which States parties seldom did; that was doubtless due to Mr. Koulishev's extensive experience of the Committee's work. Numerous questions had been raised as a

result of the far-reaching changes that had occurred in Bulgaria since November 1989 and of the radical change in the political regime; the Bulgarian Government and delegation should be commended for having unhesitatingly referred to the difficulties caused by those changes.

43. With reference to paragraphs 87 and 88 of the report, she noted first of all that, under article 7 of the Constitution, the State was liable for injury caused by illegitimate rulings or acts by its agencies and officials, and secondly that individuals who had been interned, exiled or resettled by administrative decision, dismissed from universities, etc., under the totalitarian regime, were entitled only to compensation. In that regard, she asked whether the Constitution did not also make provision for their reinstatement in their positions or for the professional rehabilitation of individuals who had suffered prejudice as a result of repression under the previous regime.

44. Regarding the status of the Covenant in the domestic legal order, she asked whether all the rights set out in the Covenant enjoyed constitutional rank or whether some of them were regarded as having lower status than others. She also inquired whether ordinary citizens had access to the Constitutional Court. Regarding the provisions of article 57, paragraph 3, of the Constitution, referred to in paragraph 42 of the report, she asked what was meant by "imposition of a state of emergency" and whether it signified, for example, measures adopted in response to national disasters, such as floods or earthquakes. Lastly, where minorities were concerned, the Bulgarian delegation had made no secret of the fact that Gypsies had suffered violations of the rights set out in article 27 of the Covenant, because nationalist movements had prevented them from pursuing their cultural activities, practising their religion and using their language. In that connection, the delegation might clarify whether the Government had taken the necessary urgent measures not only to put an end to racial hatred, but also to guarantee all the other rights to which the Gypsy population was entitled by virtue of other articles of the Covenant - in particular, medical care, legal aid and protection by the forces of law and order.

45. Mr. MAVROMMATIS thanked the Bulgarian delegation for its oral statement and said he was particularly gratified to note Mr. Koulishev's presence in the delegation.

46. He shared Mr. Herndl's uncertainty about the provisions of article 5, paragraph 4, of the Constitution, which regulated the status of the Covenant in domestic legislation, and asked for fuller details. He also asked for further information on the role and powers of the Constitutional Court and what was meant by the fact that the Court operated "outside the judicial system", as indicated in paragraph 14 of the report. He also asked whether the Bulgarian authorities had considered establishing, or had already established, an institution comparable to that of the ombudsman or of a national human rights commission, which had frequently proved most valuable in addressing problems of infringement of individual rights and freedoms. He was gratified to note that Bulgaria had ratified the first Optional Protocol to the Covenant, but would have appreciated it if the Government of Bulgaria had informed Amnesty International, which was a valuable source of information for the Committee, of its ratification.

47. Regarding the transition from a totalitarian to a democratic regime, the Bulgarian delegation might inform the Committee whether supporters of the former regime had been assured of full respect for all procedural guarantees if they had been prosecuted. Finally, he noted that Bulgaria had taken the right course to improve the situation of minorities, particularly that of the Turkish minority; however, the Government seemingly needed to make further efforts to ensure better protection for minorities and to establish an educational system for them that was truly adapted to their needs.

48. Mr. LALLAH said he was extremely pleased to note that the Bulgarian delegation included his former colleague, Mr. Koulishev, who had made a remarkable contribution to the Committee's work during its early years.

49. As far as Bulgaria's report was concerned, although it was of excellent quality and had been usefully supplemented by the delegation's oral statement, he emphasized that the Committee could not accept that it constituted the consolidated second and third periodic reports of Bulgaria, as stated in paragraph 1. The second periodic report had been due in 1984, since when there had been considerable changes in Bulgaria.

50. Regarding Bulgaria's application of article 27, concerning ethnic, religious and linguistic minorities, he was gratified to note that the Government had taken numerous measures, in particular to provide teaching in the languages of ethnic groups, which was of fundamental importance, and to inform the population as a whole, and in particular the police, of the respect due to minorities. Nevertheless, he reserved the right to come back at a later stage to a number of points concerning the provisions of articles 11 and 13 of the Constitution applicable to minorities.

51. Regarding the State's liability for harm caused by illegitimate rulings or acts of its agencies and officials (para. 87 of the report), he inquired whether the State was also liable for damage that might be caused by decisions taken by judges or members of the judiciary. He also asked for details of the manner in which legal aid was made available in Bulgaria.

52. Mr. PRADO VALLEJO said that he was particularly pleased that consideration of the second periodic report of Bulgaria by the Committee was taking place in circumstances so different from those which had marked the consideration of the initial report. Although it was not perfect, the second periodic report (CCPR/C/32/Add.17) testified to the efforts made by the State party to adapt its legislation to the provisions of the Covenant, and made it possible to appreciate the progress made towards respect for human rights.

53. Specifically, he asked first of all whether the Covenant had been invoked before the courts in Bulgaria, and requested examples if there were any. Noting from paragraph 10 of the report that, under article 117 of the Constitution, it was the responsibility of the judiciary to protect the rights and legitimate interests of citizens, he inquired how citizens could set their grievances before the judiciary. That question was prompted by the statement in paragraph 11 of the report that the rights of citizens were protected ex officio by the judicial authorities without the need for a claim from a

plaintiff. If the judicial authorities acted on their own authority, it would be interesting to know under what procedure. Lastly, he asked what were the "public organizations" with monitoring functions in respect of violations of human rights (para. 30 of the report).

54. In part I of the report (para. 4), reference was made to the previous totalitarian regime and to its practices violating human rights. He inquired whether the violations of fundamental rights that had occurred under the regime had been investigated and prosecuted and whether those responsible had been identified and punished.

55. The current Penal Code still made provision for capital punishment, which could be applied in certain specific cases, and in particular to punish "certain crimes affecting society" and "certain crimes against peace and humanity" (para. 52 of the report). He asked what exactly was meant by those expressions and which judicial organ tried such crimes and under what procedure. Those concepts were familiar in international law, but it would be interesting to know what was meant by them in the context of domestic legislation.

56. In order better to gauge the progress made in ensuring respect for human rights, he would like to know whether there had been any cases in which the courts had found that human rights had been violated and had awarded compensation to the victims.

57. Lastly, he stressed the importance of human rights education in a society which was emerging from a long, dark period for human rights and progressing towards a regime of respect for the rule of law. Human rights training was necessary not only for the police, in order to avert arbitrary acts, but also and above all for young people, at school or university. He asked what had been done in Bulgaria to disseminate the text of the Covenant, especially since the authorities expected it to take several years before the provisions of the Covenant were incorporated into Bulgarian legislation.

58. Mr. EL SHAFEI noted, together with Mr. Fodor, that the period between the initial report and the second periodic report was not really addressed in the second report, although he was convinced that the dialogue which had been initiated between the Committee and the Bulgarian delegation would make good that shortcoming. Regarding the status of the Covenant, as the Bulgarian delegation had not indicated whether the provisions of the Covenant had been invoked before the courts, he concluded that they had not been. However, the delegation had said that if a conflict arose between the provisions of the Covenant and those of domestic legislation, the matter would be settled by the Constitutional Court. Nevertheless, it was still necessary to clarify one aspect of that question. It was stated in paragraph 14 of the report that the Constitutional Court ruled on the Constitution's compatibility with international instruments concluded but as yet unratified by Bulgaria. He asked whether the relevant procedure was initiated by the State or by an individual, and what was meant by the fact that the Constitutional Court operated "outside the judicial system" (para. 14 of the report).

59. The second matter of concern to him was minorities, in respect of which he understood that a Bill was to be submitted to Parliament. Regarding the Turks, who were a large minority of 800,000 persons, he asked whether they were considered as a minority solely on the basis of religion, or on the basis of other criteria. There were countries whose population included groups of different faiths or languages who were nevertheless not regarded as minorities; that was the case of several European countries, such as Belgium.

60. Again with regard to minorities, he was struck by the negative connotations of the statement in article 37, paragraph 2, of the Constitution that freedom of conscience and religion should not be practised to the detriment of national security, public order, public health and morals, or the rights and freedoms of others. In contrast, article 18 of the Covenant was worded in a more constructive spirit. He asked whether the new act under consideration would take its inspiration from the approach adopted by the Covenant.

61. Lastly, the Bulgarian delegation had referred to the mass exodus of Bulgarians who had fled to Turkey under the former regime. According to the authorities they numbered 50,000, although the individuals themselves had estimated their number to be 100,000. He asked why that exodus was continuing even though the economic situation was hardly more attractive in Turkey, the restrictions imposed by the former Bulgarian regime had been lifted and the new Constitution offered Bulgarian citizens full safeguards.

62. Mrs. EVATT, while noting the delay in the submission of the second periodic report, said that she had particularly appreciated the frankness with which the Bulgarian delegation had described the difficulties Bulgaria faced in ensuring the implementation of the Covenant. Many of the points of concern to her had already been raised by other members of the Committee. She noted an encouraging development: the State party acknowledged the fact that police and judicial personnel were ill-informed about human rights, and unfamiliar with the provisions of the Covenant. She asked whether the State party planned, as had been recommended by the World Conference on Human Rights, to set up a national institution responsible for providing human rights education and training for such personnel.

63. Regarding the status of the Covenant in Bulgarian domestic law, she drew attention to possible incompatibilities between the Covenant and the Constitution, as she had noted several instances in which the same rights were referred to differently. Such was the case, for example, of the derogations authorized under a state of emergency by article 57, paragraph 3, of the Bulgarian Constitution, which were not the same as those set out in article 4 of the Covenant. She asked whether the Bulgarian authorities were planning to conduct a detailed review of their legislation so as to abolish those provisions that were incompatible with the Covenant.

64. She asked the Bulgarian delegation for examples of any measures that had been taken in respect of human rights violations committed under the previous regime. She also inquired whether there had been any investigations and trials, and whether compensation had been awarded to the victims.

65. She then referred to paragraphs 13 and 34 of the report, which indicated that Bulgaria had not yet established the Supreme Administrative Court provided for by the Constitution to permit citizens to appeal against errors or abuse of powers by the administrative authorities. She asked whether the relevant legislation was ready, what exactly the functions of the Court would be, and whether the State party also planned to appoint an ombudsman.

66. The last matter of concern to her was the status of minorities. Gypsies appeared to be particularly disadvantaged, perhaps because they were considerably fewer in number than, for example, the Turkish-speaking community, and thus carried less political weight. Although the problem of the Gypsies was not mentioned in the report, their fate seemed to justify the adoption by the State party of measures to ensure that they participated to a greater extent in local and national affairs, and to improve their access to education and training. The right to study in one's mother tongue was embodied in article 36 of the Constitution; she asked for further information on specific measures on behalf of Gypsies in that respect.

67. Mr. WENNERGREN said that the second periodic report of Bulgaria (CCPR/C/32/Add.17) was highly commendable in that it set out the difficulties encountered and the reasons why the authorities had not been able to make as much progress as they would have liked during the transitional period; that was sufficiently uncommon a feature to be worth mentioning. His first question concerned the role of the judiciary. The Constitution seemed to suggest that the judicial authorities monitored, on their own authority, the lawfulness of decisions taken by State organs. He asked whether his interpretation was correct, since article 120 of the Constitution stipulated that Bulgarian citizens were free to contest any administrative act concerning them, except those specified by law. In addition, as no administrative courts had yet been established, he asked whether their functions were performed by the ordinary courts. If so, there might be reason to fear that the absence of a specific administrative procedure would make it difficult for the ordinary courts to consider appeals against administrative decisions. It would be interesting to know how Bulgaria had solved that problem.

68. Regarding minorities, it was stated in paragraph 209 of the report that there were different ethnic, religious and linguistic groups in Bulgaria, some of which were enumerated. He was surprised that the Greeks were not mentioned, and asked what other groups had been omitted.

69. Mr. BRUNI CELLI welcomed the changes that had taken place since the submission of the initial report of Bulgaria, which had made the transition to a pluralistic regime, and noted that those changes had been reflected in legislation and in particular in the Constitution. However, in his view, it was also necessary to bring about a change in mentalities and to instil the human rights culture into a society which had been subjected to many years of authoritarian rule. Accordingly, he asked what steps were being taken in Bulgaria to inculcate the human rights culture into such important components of society as the police, military personnel and prison and administrative officials.

70. The second point to which he drew attention was the fact that the provisions of the Covenant had not been invoked before the courts in Bulgaria. In his view, that reflected a lack of human rights education in schools, and more especially in universities.

71. The third point concerned minorities, many of whose problems seemed to be in the process of being solved, particularly the representation of the Turkish minority in Parliament. However, the fate of the Gypsies was particularly disturbing, as the deterioration in their economic circumstances had driven many of them to drugs, alcohol and delinquency. He asked whether, in those circumstances, the authorities had drawn up a specific plan to ensure more equitable treatment and greater protection for them.

72. Fourthly, it could be seen from paragraph 29 of the report that there was no particular body or service in Bulgaria responsible for ensuring respect for human rights. He pointed out that the World Conference on Human Rights had recently recommended that States should consider setting up such institutions. On a related point, he, like Mr. Prado Vallejo, queried the assertion that the judicial authorities protected human rights ex officio, without any need for the individual to lodge a complaint. That seemed all the more problematic as Bulgarian society had not really developed a human rights culture as yet.

73. The CHAIRMAN said that the Bulgarian delegation would reply to the oral questions put by members of the Committee at the following meeting.

The meeting rose at 1.15 p.m.